

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROYA REZAINIA

v.

REDSTONE GROUP INC. AND
KROGER TEXAS LP

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§
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CASE NO. 4:21-cv-1633

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT Defendant, Kroger Texas L.P. (incorrectly named as “Kroger Texas LP” and sometimes referred to as “Kroger” or “Defendant”) while fully reserving all rights and defenses, file this Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division. Removal is proper under 28 U.S.C. §§1332 and 1441(a) because this is an action over which the United States District Court for the Southern District of Texas, Houston Division, has original diversity jurisdiction, as it is an action between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In support of this Notice of Removal, Defendant respectfully would show as follows:

I. GROUNDS FOR REMOVAL

1. This case is removable to this Court based on diversity jurisdiction under 28 U.S.C. §§1332 and 1441(a).
2. Plaintiff Roya Rezainia (hereinafter referred to as “Plaintiff”) is an individual who is a citizen of Texas, and a resident of the State of Texas.
3. Kroger is a limited partnership organized and existing under the laws of the State of Ohio.
4. As described more fully below, Plaintiff seeks to recover from the Defendant an amount in excess of \$75,000.00, excluding interest and costs, in her state court action.

II. PENDING STATE SUIT

5. On or about February 25, 2021, Plaintiff filed an Original Petition against Kroger and Redstone Group, Inc. (“Redstone”) in Cause No. 2021-11088 styled *Roya Rezainia v. Redstone Group Inc. and Kroger Texas LP*, in the 333rd Judicial District Court of Harris County, Texas.¹

6. According to Plaintiff’s Original Petition, on April 15, 2020, while entering a Kroger grocery store, she allegedly tripped and fell over a “dangerous crack and/or other defect in the concrete walking and working surface” in the entryway area of the store.²

7. The name and address of the Court from which the case is being removed is:

333rd District Court
Harris County Civil Courthouse
201 Caroline Street
Houston, Texas 77002

III. STATE COURT DOCUMENTS

8. The following documents are attached to this Notice of Removal:

Exhibit “A” Plaintiff’s Original Petition.

Exhibit “B” Return of Service.

Exhibit “C” Defendant’s Original Answer.

Exhibit “D” An index of matters being filed.

D-1 Copy of the state court Docket Sheet/Record.

D-2 Copy of process.

D-3 A list of all counsel of record, addresses, telephone numbers, and parties.

¹ See Plaintiff’s Original Petition attached hereto as Exhibit A.

² *Id.* at ¶9.

D-4 Civil Cover Sheet

Exhibit "E" Plaintiff's Notice of Partial Nonsuit Without Prejudice.

IV. TIMING OF REMOVAL

9. Kroger was served Plaintiff's Original Petition on March 8, 2021.³ Plaintiff non-suited Redstone on April 18, 2021.⁴ This Notice of Removal is being filed within 30 days of service of Plaintiff's Notice of Partial Non-suit of Defendant Redstone and is timely filed under 28 U.S.C. §1446(b).

V. JURISDICTION

10. Pursuant to 28 U.S.C. §1332, a defendant has a right to remove a case to federal court if the case involves a dispute between completely diverse parties and the amount in controversy, excluding interest and costs, exceeds \$75,000.00.

11. Plaintiff has asserted that she seeks damages in an amount in between \$250,000 and \$1,000,000.⁵ Based on the allegations in Plaintiff's Original Petition, this matter is removable to this Court under 28 U.S.C. §1332 because the amount in controversy, excluding interests and costs, exceeds \$75,000.00.

12. Plaintiff also alleges in her Original Petition that she is a citizen of Texas.⁶

13. Kroger is a limited partnership organized and existing under the laws of the State of Ohio. The following are the partners of Defendant, all of whom are incorporated in and citizens of the State of Ohio:

- a. KRGP, Inc. is the General Partner of Kroger Texas L.P. KRGP, Inc. is incorporated in the State of Ohio and its principal places of business is in the State of Ohio.

³ See Return on Service attached hereto as Exhibit B.

⁴ See Plaintiff's Notice of Nonsuit attached hereto as Exhibit E.

⁵ See Plaintiff's Original Petition attached as Exhibit A, at ¶ 2.

⁶ See *id.* at ¶ 3.

- b. KRLP, Inc. is the Limited Partner of Kroger Texas L.P. KRLP, Inc. is incorporated in the State of Ohio and its principal places of business is in the State of Ohio.

14. Although Plaintiff originally sued Redstone, Plaintiff has since non-suited the Redstone.⁷ As such, Kroger is the only Defendant in the lawsuit.

15. Accordingly, there exists complete diversity of citizenship between Plaintiff and Kroger under 28 U.S.C. §1332.

VI. VENUE

16. Pursuant to 28 U.S.C. §1441(a), venue for this action is proper in the United States District Court for the Southern District of Texas, Houston Division, as it is the federal judicial district that encompasses the 333rd District Court of Harris County, Texas where the state action was originally filed.

VII. NOTICE TO ADVERSE PARTIES AND TO STATE COURT

17. As the removing party, Defendant will give Plaintiff prompt written notice of this Notice of Removal as required by 28 U.S.C. §1446(d).

18. Defendant will also file a copy of this Notice of Removal with the 333rd District Court of Harris County, where the state court action is currently pending, as required by 28 U.S.C. §1446(d).

VIII. ANSWER

19. Defendant timely filed an answer in the state court action. By removing this action to this Court, Defendant does not waive any defenses, objections or motions available to it under state or federal law, and will timely file responsive pleadings to Plaintiff's Original Petition in this Court as well.

⁷ See Plaintiff's Notice of Non-suit, attached hereto as Exhibit E.

PRAYER

20. For these reasons and in conformity with 28 U.S.C. §1446, Defendant respectfully remove the civil action styled *Roya Rezainia v. Redstone Group Inc and Kroger Texas LP*, and bearing Cause No. 2011-11088 on the docket of the 333rd District Court of Harrid County, Texas. Defendants prays for such other and further relief, both general and special, at law and in equity, to which it may show itself justly entitled.

Respectfully submitted by,

/s/ Adraon D. Greene

Adraon D. Greene

Attorney-in-Charge

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**ATTORNEYS FOR DEFENDANT,
KROGER TEXAS L.P.**

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May, 2021, a copy of the above and foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants. I also certify that I have forwarded this filing by regular U.S. Mail, postage pre-paid, this same day to all non-CM/ECF participants.

Via E-Service

Chelsea Murfree

Adam Ramji

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ATTORNEYS FOR PLAINTIFF

/s/ Kelsi M. Wade

Adraon D. Greene

Kelsi M. Wade